

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2008

SCOTT N. ERRICO,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D08-2368

[September 17, 2008]

PER CURIAM.

We reverse the trial court's order denying appellant's Motion to Vacate Judgment and Sentence in this case and remand with directions that the motion be dismissed. Appellant lacks standing to file a post-conviction motion in this case because another individual, not appellant, was convicted in this case. As the State and appellant both acknowledge, the appellant is serving a life sentence and has been continuously incarcerated throughout the period the offenses in this case were committed. Appellant could not have been convicted for the offenses in this case.

The confusion arises because the defendant in this case was convicted under the name Scott N. Errico, which is the appellant's name. The defendant in this case, lower court case number 00-3345 CF10A, is also known as "Wynn Edward Errico," as reflected in official records.¹

¹ Appellant's motion correctly notes that non-official records for Wynn Errico's conviction in this case reflect appellant's date of birth. Appellant also alleges a striking similarity between what he has sworn to be his own social security number, and the number listed on the fingerprint sheet accompanying the judgment in this case. We note that it is peculiar that Wynn Errico, who is listed on numerous Broward county cases under the name "Wynn Edward Errico," Broward County Control Number 0091984, would be convicted under the name "Scott N. Errico" in this case. The anomalies might be clerical errors in the records, or they might be something more that requires investigation by the proper authorities.

We are satisfied by the records provided by the State in its response to this motion below, as well as the documents provided by appellant in his motion, that the offenses in this case have not been attributed to appellant. Appellant has not shown that he suffers any prejudice from the convictions in this case. The trial court should dismiss appellant's motion as he lacks standing to file motions in this case. To the extent the motion could have been treated as an original proceeding, the trial court correctly determined that the motion did not present a basis for relief.

Reversed and Remanded with Directions.

SHAHOOD, C.J., STONE and HAZOURI, JJ., concur.

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Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Pedro E. Dijols, Judge; L.T. Case No. 00-3345 CF 10 A.

Scott N. Errico, Bushnell, pro se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing.